

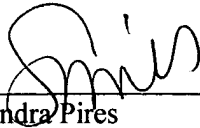


PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

CERTIFICATE OF MAILING

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Sandra Pires

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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Application Serial No.: 10/523,904

Filed/371(c) date: January 28, 2005

Applicants/Appellants: Takashi Yoshimura, et al.

Title: MULTIPLE MESSAGE SERVER APPARATUS

Appeal from a decision of the Primary Examiner dated May 27, 2009

12/29/2009 CCHAU1 00000029 10523904

01 FC:1402

540.00 DP

Atty. Docket: VPM-01801

REAL PARTY IN INTEREST

The above-identified application is assigned to **Vodafone Group PLC** by virtue of an Assignment recorded by the U.S. Patent and Trademark Office on January 24, 2008, at Reel 020409 / Frame 0037.

RELATED APPEALS AND INTERFERENCES

Appellants are not aware of any other appeals, interferences or judicial proceedings related to the above-identified application.

STATUS OF CLAIMS

This is an appeal from a decision of the Primary Examiner in the Final Office Action dated May 27, 2009, finally rejecting claims 1-20 in the above identified patent application; and claims 1-20 are on appeal. Claims 1-20 stand rejected under 35 U.S.C. 103(a). No claim has been allowed or indicated to contain allowable subject matter. Appellants appeal the above-noted rejections. A Notice of Appeal was submitted on October 27, 2009.

STATUS OF AMENDMENTS

Appellants filed an Amendment and Response on July 3, 2008, in response to the non-final Office Action dated February 8, 2008, in which claim amendments were made and accordingly entered by the Examiner. In response to the second non-final Office Action dated October 28, 2008, no claim amendments were made. Appellant filed a Notice of Appeal on October 27, 2009, in response to the Final Office Action dated May 27, 2009, which did not involve any claim amendments. Accordingly, all proposed claim amendments have been

appropriately entered in the above-captioned application. The claims involved in this Appeal are set forth in the attached Claims Appendix.

SUMMARY OF CLAIMED SUBJECT MATTER

I. Overview

Mobile telephone systems allow transmission and reception of multimedia messages including static images, video and music. Such multimedia messages can be exchanged between mobile telephones that are equipped to deal with multimedia messages and are capable of transmitting and receiving multimedia messages through the Internet. It is desirable to be able to send such multimedia messages internationally.

Some countries/operators support number portability where the mobile subscriber number that is allocated to a mobile telephone (MSISDN) is unchanged even though the operator to which the mobile telephone is subscribed is changed. In such a case, it is not possible to ascertain from the MSISDN alone the destination to which the multimedia message is to be forwarded. Instead, an additional table needs to be consulted to determine the proper destination. On the other hand, in situations where number portability is not supported, there is no need to consult the additional table. The present claimed invention first determines if number portability is supported and then transmits the multimedia message directly if it is not. This may be exceptionally efficient in instances (countries) where number portability is not supported, since it avoids the overhead of determining whether a number has been ported and, if so, to where.

II. Appellants' Claimed Invention

Appellants' claims are discussed below in connection with portions of the specification and figures for purposes of non-limiting example and explanation only in accordance with 37 C.F.R. 41.37(c)(v).

Independent claim 1 recites a multimedia message service apparatus (item 11 in FIG. 1 described, for example, in paragraph [0015] of the published application) including first decision means that, when receiving a multimedia message that has been transmitted (see, for example, paragraph [0016]), references an international prefix table (FIG. 2 and item 12 in FIG. 1 described, for example, in paragraph [0017]) to decide whether or not the message is to be transmitted internationally to a forwarding destination, based on transmission destination information in the multimedia message. If the first decision means decides that the message is to be transmitted to the forwarding destination, second decision means references a first routing table (item 13 in FIG. 1 described, for example, in paragraph [0018] and FIG. 3, described, for example, in paragraph [0019]) based on the transmission destination information to decide whether or not the forwarding destination supports number portability. If the second decision means decides that the forwarding destination does not support number portability, first acquisition means acquires the domain name of the forwarding destination from the transmission destination information by referencing said first routing table. If the second decision means decides that the forwarding destination does support number portability, second acquisition means acquires international identification information corresponding to the transmission destination information by inquiring registration means that registers subscriber data and acquires the domain name of the forwarding destination by referencing a second routing table

(item 16 in FIG. 1 described, for example in paragraph [0021] and FIG. 4 described, for example, in paragraph [0021]) based on the international identification information that has thus been acquired. Forwarding means forwards the multimedia message to the forwarding destination of the domain name that has been acquired by the first acquisition means or the second acquisition means. Claims 2-4 depend from independent claim 1.

Independent claim 5 is directed to a multimedia message service apparatus (item 11 in FIG. 1 described, for example, in paragraph [0015] of the published application) that includes a first decision apparatus that, after receiving a multimedia message that has been transmitted (see, for example, paragraph [0016]), determines if the message is to be transmitted internationally to a forwarding destination based on transmission destination information in the multimedia message (described, for example, in paragraph [0017]). The multimedia service apparatus also includes a second decision apparatus that, if the first decision apparatus determines that the message is to be transmitted internationally to the forwarding destination, references a first routing table (item 13 in FIG. 1 described, for example, in paragraph [0018] and FIG. 3, described, for example, in paragraph [0019]) based on the transmission destination information to determine if the forwarding destination supports number portability, a first acquisition apparatus that, if the second decision apparatus determines that the forwarding destination does not support number portability, acquires information identifying the forwarding destination using the transmission destination information and the first routing table, a second acquisition apparatus that, if the second decision apparatus determines that the forwarding destination does support number portability, acquires international identification information corresponding to the transmission destination information and acquires the information identifying the forwarding

destination using the international identification information and a second routing table (item 16 in FIG. 1 described, for example in paragraph [0021] and FIG. 4 described, for example, in paragraph [0021]), and a forwarding apparatus that forwards the multimedia message to the forwarding destination using the information identifying the forwarding destination. Claims 6-12 depend, directly or indirectly, from claim 5.

Independent claim 13 recites a method for servicing multimedia messages. The method includes receiving a multimedia message that has been transmitted (see, for example, paragraph [0016]), determining if the message is to be transmitted internationally to a forwarding destination based on transmission destination information in the multimedia message (described, for example, in paragraph [0017]), if it is determined that the message is to be transmitted internationally to the forwarding destination, referencing a first routing table (item 13 in FIG. 1 described, for example, in paragraph [0018] and FIG. 3, described, for example, in paragraph [0019]) based on the transmission destination information to determine if the forwarding destination supports number portability, if it is determined that the forwarding destination does not support number portability, acquiring information identifying the forwarding destination using the transmission destination information and the first routing table, if it is determined that the forwarding destination does support number portability, acquiring international identification information corresponding to the transmission destination information and acquiring the information identifying the forwarding destination using the international identification information and a second routing table (item 16 in FIG. 1 described, for example in paragraph [0021] and FIG. 4 described, for example, in paragraph [0021]), and forwarding the multimedia message to the forwarding destination using the information of the forwarding destination or the

international identification information. Claims 14-20 depend, directly or indirectly, from claim 13.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent App. Pub. No. 2004/0156495 to Chava, et al. (hereinafter "Chava") in view of U.S. Patent App. Pub. No. 2007/0042779 to Eikkula (hereinafter "Eikkula").

ARGUMENT

The Examiner has failed to establish a prima-facie case of obviousness of the claims under 35 U.S.C. §103(a) as being unpatentable over Chava in view of Eikkula.

A. Obviousness Standard

In determining whether or not there is a proper case of obviousness, it is necessary to establish whether one of ordinary skill in the art would, having the prior art references before him, be capable, or otherwise motivated, to make the proposed combination, modification or substitution so as to yield all elements of a claimed invention. *See KSR Int'l Corp. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385 (2007); *see also In re Lintner*, 458 F.2d 1013, 1016 (CCPA, 1972). In rejecting claims under 35 U.S.C. §103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness and the Examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966). *See also United States v. Adams*, 383 U.S. 39 (1966); *Anderson's-Black Rock, Inc. v. Pavement Salvage Co.*, 396 U.S. 57 (1969); and *Sakraida v. AG Pro, Inc.*, 425 U.S. 273 (1976). The analysis used to combine prior art teachings to invalidate a patent claim based on obviousness should be explicitly articulated. *See KSR*, 82 USPQ2d at

1396, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) ("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness"). However, the analysis may take account of the inferences and creative steps that a person of ordinary skill in the art would employ. *Id.*

Furthermore, if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *See In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984). In addition, if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *See In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

B. The cited references do not teach or fairly suggest every element of Appellants' claimed invention as to have rendered Appellants' claimed invention obvious to one of ordinary skill in the art at the time the invention was made.

The rejection of claim 1-20 under 35 U.S.C. 103(a) as being unpatentable over Chava in view of Eikkula is hereby traversed and it is respectfully requested that the rejection be reversed by the Board.

Chava discloses an intermediary network system for facilitating message exchange between wireless networks. Message exchange between two subscribers or the same or different

networks may involve lookups of subscriber data, message transformations and routing decisions.

Eikkula discloses a telecommunications system that includes two telecommunications networks and means for providing number portability service between the networks. The method includes initiating a set-up procedure for communications between two stations, sending an enquiry to the number portability service, determining if the called station is a ported station, and informing a supplementary telecommunications service of the results of said determination before initiating a use of the supplementary telecommunications service. Paragraph [0049] of Eikkula provides that Service Routing Registers (SRR) of a network may determine whether a call is routed to a ported number or an actual subscriber of the network.

All of Appellants' independent claims recite determining if the forwarding destination supports number portability and, if number portability is not supported, then transmitting destination information in the multimedia message is used along with the first routing table to obtain information identifying the forwarding destination, such as a domain name. If number portability is supported, then international identification information is obtained and used with a second routing table to obtain the information identifying the forwarding destination, such as the domain name. Appellants have found that multimedia message servicing is beneficially facilitated for international transmission of a multimedia message according to determinations of number portability and resultant information acquisition, as noted above and recited by Appellants. (See, for example, page 15, lines 12-25 of the originally-filed English specification). Note that first determining if number portability is supported, and then transmitting directly if it

is not, may be exceptionally efficient in instances (countries) where number portability is not supported since it avoids the overhead of determining whether a number has been ported and, if so, to where.

As indicated at the top of page 7 of the Office Action, Chava fails to teach this feature of the present claimed invention. However, Eikkula does not overcome this deficiency since there is no disclosure in Eikkula regarding determining whether a destination supports portability. Instead, Eikkula provides information as to whether a particular number has been ported and, thus, effectively assumes that all destinations support number portability. In contrast, the present claimed invention first determines whether number portability is supported and thus avoids the overhead of determining if a particular number at the destination has been ported. If a destination does not support number portability, then obviously no numbers have been ported at that destination and it is a waste of resources to perform the processing illustrated in Eikkula to determine if a number at the destination has been ported.

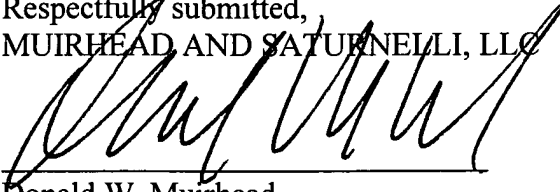
In the present claimed invention, if number portability is not supported, then the system can go directly to that country and network knowing that the target is currently registered with that country/network. In contrast, you cannot use the Eikkula database to determine if number portability is supported at a destination since all the Eikkula database indicates is whether a particular number has been ported and, if so, to where. In Eikkula, the system appears to assume that all countries allow number portability - otherwise it would allow access directly to the HLRs. Note, by the way, that this understanding of Eikkula is supported by the page 3 of the Office Action, which provides the Examiner's response to our previous argument.

In a sentence, the present claimed invention determines if number portability is supported while Eikkula only determines if a number has been ported and, if so, to where. The system that would result in the combination of Chava and Eikuula would always check if a number has been ported even if the destination is incapable of supporting number portability. The present claimed invention was meant to be an improvement to such a system. As discussed elsewhere herein, for the present claimed invention, in instances where number portability is not supported, the second routing table (with number porting information) is *never* consulted whereas in Eikkula, the number porting routing table is *always* consulted.

Accordingly, Appellants submit that neither Chava nor Eikkula, taken alone or in combination, teach or fairly suggest at least the above-noted features that are recited by Appellants. In view of the above, Appellants respectfully request that the rejection be reversed by the Board.

CONCLUSION

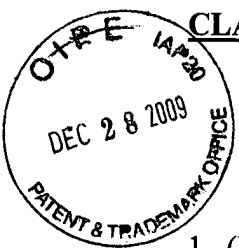
In view of the above, it is respectfully requested that the Board reverse all of the Examiner's rejections under 35 U.S.C. 103.

Respectfully submitted,
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CLAIMS APPENDIX

The claims involved in this Appeal are as follows:

1. (Previously Presented) A multimedia message service apparatus, comprising:

first decision means that, when receiving a multimedia message that has been transmitted, references an international prefix table to decide whether or not the message is to be transmitted internationally to a forwarding destination, based on transmission destination information in said multimedia message;

second decision means that, if the first decision means decides that the message is to be transmitted to the forwarding destination, references a first routing table based on said transmission destination information to decide whether or not the forwarding destination supports number portability;

first acquisition means that, if the second decision means decides that the forwarding destination does not support number portability, acquires the domain name of the forwarding destination from said transmission destination information by referencing said first routing table;

second acquisition means that, if said second decision means decides that the forwarding destination does support number portability, acquires international identification information corresponding to said transmission destination information by inquiring registration means that registers subscriber data and acquires the domain name of the forwarding destination by referencing a second routing table based on the international identification information that has thus been acquired; and

forwarding means that forwards said multimedia message to the forwarding destination of the domain name that has been acquired by said first acquisition means or said second acquisition means.

2. (Previously Presented) The multimedia message service apparatus according to claim 1, wherein said first routing table comprises information including the country code and the domain name of each operator specified by the operator code and information as to whether or not number portability is supported and said second decision means decides whether or not the forwarding destination operator supports number portability by searching said first routing table using as keys the country code information and operator code information in said transmission destination information.
3. (Previously Presented) The multimedia message service apparatus according to claim 1, wherein said first acquisition means acquires the domain name of the forwarding destination from country code information and operator code information in said transmission destination information.
4. (Previously Presented) The multimedia message service apparatus according to claim 1, wherein said second routing table comprises domain name information for each of the operators specified by the country code information and operator information and said second acquisition means acquires the forwarding destination domain name by searching said second routing table using as keys information identifying the country and information identifying the operator in said international identification information.

5. (Previously Presented) A multimedia message service apparatus, comprising:

a first decision apparatus that, after receiving a multimedia message that has been transmitted, determines if the message is to be transmitted internationally to a forwarding destination based on transmission destination information in the multimedia message;

a second decision apparatus that, if the first decision apparatus determines that the message is to be transmitted internationally to the forwarding destination, references a first routing table based on the transmission destination information to determine if the forwarding destination supports number portability;

a first acquisition apparatus that, if the second decision apparatus determines that the forwarding destination does not support number portability, acquires information identifying the forwarding destination using the transmission destination information and the first routing table;

a second acquisition apparatus that, if the second decision apparatus determines that the forwarding destination does support number portability, acquires international identification information corresponding to the transmission destination information and acquires the information identifying the forwarding destination using the international identification information and a second routing table; and

a forwarding apparatus that forwards the multimedia message to the forwarding destination using the information identifying the forwarding destination.

6. (Previously Presented) The multimedia message service apparatus according to claim 5,

wherein the information identifying the forwarding destination includes a domain name.

7. (Previously Presented) The multimedia message service apparatus according to claim 5, wherein the first routing table includes country code information and domain name information of at least one operator specified by an operator code and information as to whether or not number portability is supported by the forwarding destination.
8. (Previously Presented) The multimedia message service apparatus according to claim 7, wherein the second decision apparatus determines whether or not the forwarding destination supports number portability by searching the first routing table using country code information and operator code information in the transmission destination information.
9. (Previously Presented) The multimedia message service apparatus according to claim 5, wherein the first acquisition apparatus acquires the information identifying the forwarding destination using country code information and operator code information in the transmission destination information.
10. (Previously Presented) The multimedia message service apparatus according to claim 5, wherein the second routing table includes domain name information for each operator specified by country code information and operator code information.

11. (Previously Presented) The multimedia message service apparatus according to claim 10,
wherein the second acquisition apparatus acquires the information identifying the forwarding destination by searching the second routing table using information identifying the country and information identifying the operator in the international identification information.
12. (Previously Presented) The multimedia message service apparatus according to claim 5,
wherein the second acquisition apparatus acquires the international identification information by querying a register that registers subscriber data.

13. (Previously Presented) A method for servicing multimedia messages, comprising:
- receiving a multimedia message that has been transmitted;
 - determining if the message is to be transmitted internationally to a forwarding destination based on transmission destination information in the multimedia message;
 - if it is determined that the message is to be transmitted internationally to the forwarding destination, referencing a first routing table based on the transmission destination information to determine if the forwarding destination supports number portability;
 - if it is determined that the forwarding destination does not support number portability, acquiring information identifying the forwarding destination using the transmission destination information and the first routing table;
 - if it is determined that the forwarding destination does support number portability, acquiring international identification information corresponding to the transmission destination information and acquiring the information identifying the forwarding destination using the international identification information and a second routing table; and
 - forwarding the multimedia message to the forwarding destination using the information of the forwarding destination or the international identification information.
14. (Previously Presented) The method according to claim 13, wherein the information identifying the forwarding destination includes a domain name.

15. (Previously Presented) The method according to claim 13, wherein the first routing table includes country code information and domain name information of at least one operator specified by an operator code and information as to whether or not number portability is supported by the forwarding destination.
16. (Previously Presented) The method according to claim 15, wherein determining whether or not the forwarding destination supports number portability includes searching the first routing table using country code information and operator code information in the transmission destination information.
17. (Previously Presented) The method according to claim 13, wherein acquiring information identifying the forwarding destination using the transmission destination information and the first routing table includes using country code information and operator code information in the transmission destination information.
18. (Previously Presented) The method according to claim 13, wherein the second routing table includes domain name information for each operator specified by country code information and operator code information.

19. (Previously Presented) The method according to claim 18, wherein acquiring the information identifying the forwarding destination using the international identification information and the second routing table includes searching the second routing table using information identifying the country and information identifying the operator from the international identification information.
20. (Previously Presented) The method according to claim 13, wherein acquiring the international identification information includes querying a register that registers subscriber data.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.